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F# 2006R00342

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ NOV 13 2006 ★
LONG ISLAND OFFICE

06-1186M

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UNITED STATES OF AMERICA

-against-

THOMAS G. SALOY,
also known as "Sideother38,"
"Timp38" and "Bball12nd,"

Defendant.

Filed Under Seal

AFFIDAVIT IN SUPPORT
OF ARREST WARRANT

M. No. _____
(18 U.S.C. §
2252A(a)(5)(B))

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EASTERN DISTRICT OF NEW YORK, SS.:

Robert Swiderski, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), duly appointed according to law and acting as such.

On or about November 9, 2006, within the Eastern District of New York, the defendant THOMAS G. SALOY did knowingly and intentionally possess materials containing images of child pornography, which images had been mailed, shipped and transported in interstate and foreign commerce by computer.

(Title 18, United States Code, Section 2252A(a)(5)(B)).

The source of my information and the grounds for my belief are as follows:¹

¹ Because the purpose of this affidavit is merely to establish probable cause to arrest, I have not set forth all of the facts and circumstances concerning this investigation of which I am aware.

1. I have been employed as a Special Agent of the FBI since May 1983, and am currently assigned to the Long Island Resident Agency. As such, I am authorized to conduct investigations relating to, among other things, crimes against children, including the trafficking of child pornography.

2. I am familiar with the facts and circumstances of the instant case based on my review of documentary evidence obtained during the course of this investigation and discussions with other law enforcement agents.

3. On or about September 23, 2005, FBI agents in the Milwaukee Division executed a search warrant on an individual in the Milwaukee area suspected of trading child pornography via America Online ("AOL"). Subsequent forensic examination of computer equipment seized from that individual revealed numerous child pornography images as well as e-mail messages with other AOL screen names relating to the trading of child pornography. Included among those e-mails was an e-mail message dated March 26, 2005, which was sent from that individual's AOL screen name to the AOL screen name "Sideother38." This message contained

three still image files² as attachments which appeared to depict sexually explicit images of male children, as follows:

- a. One image, entitled "Actil055.jpg" appears to show two completely nude prepubescent boys, each fondling the penis of the other boy. One of the boys also appears to be holding the erect penis of the other boy which is near his face.
- b. One image, entitled "adadadada.jpg" appears to show a nude prepubescent boy being held over a nude adult male, with his penis area on the penis area of the adult and with the adult's hand on the boy's buttocks.
- c. One image, entitled "9.art" appears to show a nude prepubescent boy with his legs spread and genitals exposed. This child pornographic image is often found in executing search warrants of pedophiles who are sexually interested in prepubescent boys.

Records provided by AOL subsequently revealed that the defendant THOMAS G. SALOY used the AOL screen names "Sideother38," "Timp38" and "Bball2nd," among others.

4. On or about June 19, 2006, at approximately 11:45 a.m., Suffolk County Police Department ("SCPD") undercover detectives observed the screen name Timp38 sign onto AOL and enter the AOL Special Interests Chat room "Gayfathers." An

² These still images of apparent child pornography involve children who are not yet known to law enforcement. Although still images of apparent child pornography can be created using "morphing" technology and the identity of the children depicted in these still images are not yet known to law enforcement (i.e., the identity and age of the children are not known to law enforcement), it appears that these images involve the use of actual (i.e. non-virtual) children engaging in sexually explicit conduct. This conclusion is also based upon my conversations with other law enforcement personnel experienced in determining whether child pornography images depict real children. These images are available for the Court's review.

undercover detective ("UC #1") posing as a 48-year-old bi-sexual male who had two sons, ages 12 and 14, signed onto AOL and entered the chat room. UC #1 was then contacted by Timp38 who stated he was a 43-year-old bi-sexual male with three sons, ages 13, 15, and 18. During this conversation Timp38 stated "its great to wach [sic]" and asked "what do u [sic] get to see," in response to a comment by UC #1 about hanging around with his sons' friends. When UC #1 asked "do you get to c [sic] much of them?" regarding Timp38's sons, Timp38 responded "ya [sic] I get to see all of them."

5. On or about June 19, 2006, between approximately 12:29 p.m. and 12:45 p.m., an exchange of pictures took place in which UC #1 e-mailed to Timp38 three undercover pictures of male minors, two of which depict the youths not wearing shirts.³ Timp38 responded by e-mailing to UC #1 four images of male minors, three of whom were shirtless. Negotiations then took place for a possible exchange of child pornography but Timp38 requested that UC #1 send him child pornography images first. During this exchange Timp38 stated, "I am cool not a cop or anything." Timp38 also stated "ok don't send but tell me about them." No exchange took place as the undercover detective would not send child pornography to Timp38.

³ These photographs were morphed or age-regressed photographs of law enforcement personnel. Undercover agents and detectives do not send child pornography, child erotica or even photographs of real children to subjects. However, many subjects will not send any images to others until they first receive images from those persons, in an attempt to avoid law enforcement scrutiny.

6. On or about September 20, 2006, at approximately 12:11 a.m., an undercover SCPD detective ("UC #2") observed the screen name Bball2nd logon to AOL and enter the AOL Special Interests chat room "Dudes4Dudes." UC #2, purporting to be a 16-year-old male from Long Island, NY, also signed on to AOL and entered the chat room. UC #2 told the entire chat room that he was a 16-year-old male looking to chat but "no older dudes," meaning he did not want to chat with adults. Subsequently, UC #2 was contacted by Bball2nd who stated he was a 15-year-old boy from Long Island. During this conversation, Bball2nd engaged in light sexual banter with UC #2 and Bball2nd wrote "tell something jreally [sic] kewl [sic]," and "tell me something really kewl [sic] and private and a secrte [sic]." During the ensuing conversation, UC #2 stated that he had a child pornographic picture of himself and a friend taken with a camera phone while engaged in a sexual act. Bball2nd asked questions about the picture and UC #2 terminated the conversation shortly thereafter.

7. On or about October 3, 2006, at approximately 10:41 p.m., an undercover SCPD detective observed the screen name Bball2nd sign onto AOL and enter the AOL Special Interests Chat room "Dudes4Dudes." UC #2 signed onto AOL and also entered the chat room, but did not participate in the ongoing chat room conversation. UC #2 then sent an instant message to Bball2nd and a one-on-one chat conversation ensued. During that conversation Bball2nd again asked UC #2 to tell him about "sex" and UC #2 repeated the story of his possessing a child pornographic image

of himself and another male taken with a camera phone during a sexual act. Bball2nd asked to see the picture and UC#2 declined. Bball2nd then exchanged e-mails with UC#2, containing non-pornographic images of the youths each screen name purported to be. The image which Bball2nd e-mailed to UC #2 was one of the images sent to UC #1 by the screen name Timp38 on approximately June 19, 2006. The undercover also observed other individuals in the chat room complaining about Bball2nd, stating that he always asks for pictures⁴ but never sends after receipt. Another individual stated that Bball2nd was a poser, on-line short hand for someone who is not what they say they are, and gave a warning to others in the chat room not to chat with him.

8. On November 7, 2006, an FBI agent applied for a search warrant for SALOY's apartment residence located within a rectory (residential) building at 196 West Centennial Avenue, Roosevelt, New York, adjacent to the Queen of the Most Holy Rosary Church, where SALOY was employed as an administrator. The warrant was issued on that day by the Honorable E. Thomas Boyle, United States Magistrate Judge for the Eastern District of New York.

9. On November 9, 2006, FBI and other law enforcement personnel of the Project Safe Childhood Task Force executed the search warrant at the residence listed above. Inside the residence, agents discovered and seized computer equipment and computer peripheral equipment.

⁴ Referring to child pornographic images.

10. The defendant THOMAS G. SALOY was present at the residence at the time of the search warrant execution. After receiving his Miranda rights, the defendant waived those rights and, in sum and substance, admitted that he had a sexual interest in 15 to 16-year-old boys, that in AOL chat rooms he asked for and received sexually explicit images of teens aged 15 to 16-years-old and that he occasionally received images of very young children, which he deleted. Defendant SALOY further admitted, in sum and substance, that he also went on-line posing as a 15-year-old boy to engage other 15-year-olds in sexual chats. SALOY also admitted that he was the individual using the screen names "Sideother38," "Timp38" and "Bball2nd," among others.

11. A preliminary search of computer equipment recovered from the defendant's residence revealed more than 1300 still images and video clips which appear to depict children engaged in sexually explicit activities. Descriptions of two still images and two video clips⁵ contained on this computer equipment were as follows:

- a. The computer file entitled "Act11055.jpg," which appears to show two completely nude prepubescent boys, each fondling the penis of

⁵ Although it is possible to manufacture still images which appear to depict children engaged in sexually explicit activity using "morphing" technology, based upon my training and experience it is not currently possible to create video clips of such activities without using actual children. Moreover, I am aware of a June 24, 2003 report from the FBI Forensic Audio, Video and Image Analysis Unit, in which expert opinion concludes that the current state of the art in computer animation is insufficient to create "realistic" full-motion video clips of any appreciable duration depicting children engaged in sexually explicit activity without using real children.

the other boy. One of the boys also appears to be holding the erect penis of the other boy which is near his face;

- b. The computer file entitled "adadadada.jpg," which appears to show a nude prepubescent boy being held over a nude adult male, with his penis area on the penis area of the adult and with the adult's hand on the boy's buttocks;
- c. The computer file entitled "15fuck7 Couch Sit" which is a video clip lasting approximately 1 minute, which depicts a post-pubescent boy engaged in anal intercourse with a prepubescent boy approximately seven years old; and
- d. The computer file entitled "Dad & Son" which is a video clip lasting approximately 1 minute, which depicts an adult male engaging in anal intercourse with a young boy approximately eight to twelve years old.

WHEREFORE, Your Affiant respectfully requests that the Court issue an arrest warrant for the defendant THOMAS G. SALOY so that he may be dealt with according to law.

Because this is an ongoing investigation, Your Affiant respectfully requests that this Affidavit, and the accompanying arrest warrant be filed under seal.

SA Robert S. Swiderski
Special Agent Robert Swiderski
Federal Bureau of Investigation

Sworn to before me this
13th day of November, 2006

1st E. Thomas Boyle, MJ

THE HONORABLE E. THOMAS BOYLE
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK